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FROM: Robert H. Frantz  
Franklin Gray Patents, LLC  
Tel: 405-812-5613  
Fax: 405-440-2465

DATE: July 12, 2005

PAGES: 13 (inclusive)

## In re the Application of:

John Falk Kelley )

Serial Number: 10/001,744 )

Group: 2172

Docket Number: AUS920010748US1 )

Examiner: Cam Y T Truong

Filed on: 10/31/2001 )

For: "Context Management Super Tools )  
and Filter/Sort Model for Aggregated )  
Display Webpages" )**Certificate of Transmission under 37 CFR §1.8**

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P.O. Box 23324 OKLAHOMA CITY, OK 73123-2334  
TEL.: 405-812-5613 FAX.: 405-440-2465  
RFRANTZ@FRANKLINGRAY.COM WWW.FRANKLINGRAY.COM

PTO/SB/17 (12-04v2)

Approved for use through 07/31/2006. OMB 0651-0032

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <b>FEE TRANSMITTAL</b> For FY 2005		<b>Complete if Known</b> Application Number 10/001,744 Filing Date 10/31/2001 First Named Inventor John Falk Kelley Examiner Name Cam Y T Truong Art Unit 2162 Attorney Docket No. AUS920010748US1	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		RECEIVED CENTRAL FAX CENTER JUL 12 2005	
TOTAL AMOUNT OF PAYMENT (\$)			

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☒ Deposit Account Deposit Account Number 09-0447 Deposit Account Name: Int'l Business Machines

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## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

## 2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180
<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 20 or HP =	x	=
HP = highest number of total claims paid for, if greater than 20.		
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>
- 3 or HP =	x	=
HP = highest number of independent claims paid for, if greater than 3.		

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fees Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

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Fees Paid (\$)

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## SUBMITTED BY

Signature	<i>Robert H. Frantz</i>	Registration No. (Attorney/Agent) 42,553	Telephone 405-812-5613
Name (Print/Type)	Robert H. Frantz		Date July 12, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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## In the United States Patent and Trademark Office

In re the Application of:

John Falk Kelley )  
Serial Number: 10/001,744 )  
Docket Number: AUS920010748US1 )  
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### APPEAL BRIEF

#### *Real Party in Interest*

The subject patent application is owned by International Business Machines Corporation of Armonk, NY.

#### *Related Appeals and Interferences*

*None.*

#### *Status of Claims*

On June 24, 2005, appellant appealed from the final rejections of claims 1 - 12. Independent claims 1 and 7 amended on November 10, 2005, while claims 2 - 6, and 8 - 12 remain in their originally filed states. Claims 1 - 12 are reproduced in the Appendix to this Appeal Brief.

Claims 13 - 15 are non-elected claims responsive to a restriction requirement made by the examiner in the Office Action of 8/10/2004, and thus stand withdrawn from this application. Please note that in the Office Action of March 24, 2005, Examiner has noted that applicant provided the election with traverse, but alleged that no reasoning was provided by applicant for the traverse. This is an inaccurate reflection of the prosecution history, as applicant elected without traverse.

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***Status of Amendments***

The amendment filed on November 10, 2004, has been entered.

***Summary of the Invention***

Most user interfaces employ an Action-Object paradigm, wherein a user first selects an *action* to perform, and then selects the *object* on which to perform that action. For example, when using a word processor, one may first select the *action* "File-Open", and then the user selects an *object* "MyDocument.doc" on which the File-Open *action* is to be performed.

Some user interfaces employ an Object-Action Navigation paradigm ("OAN"), in which the user first selects the *object* on which to act, and then selects the *action* to perform. For example, when using Windows Explorer to open a file stored on a computer hard drive, a user first selects the object "MyDocument.doc" by sing-clicking on it, and then may select an *action* by clicking on "File-Open", "File-Rename", "Edit-Copy", etc.

OAN paradigms are well known in the art for certain types of user interfaces, such as Windows Explorer, where the "objects" are of the same type (e.g. files specified by pathnames). We refer to such similar type objects a "heterogenous" objects.

Using the present invention, a user is allowed to automatically collect, filter, sort, and aggregate information from a variety of different sources (e.g. "heterogenous" sources) using a set of scripts and modules, using an Object-Action Navigation paradigm by selecting an object in the Context Pane, resulting in updated display results in the Content Pane. This allows a user to use a OAN interface on a variety of different data types via the automatic employ of the scripts and modules. We have provided an example of a commodities, investment, or stock trader's turret console, where information from different sources such as streaming data, web pages, stock quote systems, etc., is aggregated into the Content Pane, and controlled by the user's actions in the Context Pane.

The invention provides information to a user through an Object-Action Navigation paradigm (Fig. 9 #96, #904, #98; para. [0034] pg. 10 line 12) by displaying in a web page a Context Pane (#32 in Figs. 3, 4, 5; #36 in Figs. 6, 7, and 8; para. [0027] pg. 7 line 14) having one or more selectable objects of interest to a user, and displaying in the same web page a plurality of selectable heterogeneous actions associated with an object and responsive to user selection of

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an associated object.

When the user selects one of the selectable actions, an action script is executed to generate a set of results (para. [0028] pg. 7 line 16), which are then displayed in the same said web page in a Content Pane (para. [0028] pg. 7 line 17), which is separate from the Context Pane. The Content Pane shows an aggregation results (para. [0025] pg. 7 line 2, para. [0041] pg. 13 line 19) from a plurality of semi-independent (para. [0028]) heterogeneous information modules (para. [0025] pg. 7 line 2, para. [0041] pg. 13 line 19), heterogeneous transactional modules (para. [0036] pg. 11 line 5), or both, with the information being filtered and sorted according to said user's interest as indicated by a most recent selection in said Context Pane.

***Grounds for Rejection For Which Review is Sought***

Claims 1 - 4, 6, 7 - 10, and 12 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,452,609 to Katinsky, *et al.*, (hereinafter "Katinsky") in view of U.S. Patent 5,913,214 to Madnick, *et al.* (hereinafter "Madnick"). Please note that although the Office Action only states Katinsky in view of Madnick in this set of rejections (pg. 2, lines 17 - 19 of the Action), it is applicant's belief that the Examiner intended to state this as Katinsky in view of Madnick in further view of U.S. Patent 5,806,077 to Wecker (hereinafter "Wecker"), as Wecker was employed in the rationale on pg. 4, lines 12 - 17, of the Office Action. Therefore, this Appeal Brief responds to the rejections with the assumption that they were over Katinsky in view of Madnick in further view of Wecker (hereinafter "Katinsky-Madnick-Wecker").

Claims 5 and 11 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over Katinsky-Madnick-Wecker in further view of U.S. Patent 6,452,609 to Nikolovska (hereinafter "Nikolovska").

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*Rejections under 35 U.S.C. §103(a) over Katinsky  
in view of Madnick in further view of Wecker*

**Claims 1 - 4, 6, 7 - 10, and 12**

Katinsky's invention provides *homogeneous* actions for *homogeneous* objects – all *actions* are “play” or “present” actions, and all *objects* are “media objects” (Katinsky, col. 3, lines 50 - 54, emphasis added):

The media streams may be a variety of media types, such as text, audio, images, animation, video, executable code, or any combination of media types. The Internet site is a media-type neutral system, i.e., It treats different media types, such as audio and video, in a similar fashion.

(Katinsky, col. 6, lines 1 - 19, emphasis added):

As shown in FIG. 7, the object player 16 is used to play the currently selected media object from the play list 50 in the sequencer 14. The object player includes an image display window 80 and a control panel 82. The object player 16 can use any program that can be embedded in a web page that presents media objects. Examples of streaming media programs that can be embedded are QuickTime.TM., RealMedia.TM., and Microsoft Media Player.TM.. Streaming media players, such as the illustrated RealMedia Player, include the control panel features, such as a stop button 100, a pause/play button 102, a previous button 104 and a next button 106. a vertical-slider control 108 provides audio volume control, and a horizontal slider control 110 provides fast forward/rewind control and indicates the amount of the stream that has been and remains to be played. A display panel 112 presents the current status of the media object, e.g., playing or paused, and a clock 114 shows the total duration of the multimedia object and the elapsed time.

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Katinsky fails to disclose retrieving information such as historical stock trading data, nor such processing data, such as graphing the historical trends of stock data.

Further, Katinsky's display does not use a traditional web page as we have claimed, but instead uses a "pageless" design (col. 3, lines 42 - 48):

... In addition, the Internet site is "pageless", in that media streams are delivered to the user without the user having to navigate to different pages. ...

without using traditional text-based web pages (Katinsky col. 3 line 63 - col. 4 line 6, emphasis added):

The pageless Internet site is an inversion of conventional web site design. In conventional web site design the media object is the last link in a long chain of pages and links. The setting, context, meaning, and relevance of the media object are established in hypertext, and the media object is an add-on for the hypertext. In contrast, in the pageless Internet site, the media object is the starting point. The pageless Internet site is media-oriented, as opposed to being text-oriented with media annotations. In short, the principle of organization of web page 10 is the relationship between media objects, rather than the relationship between pages.

Finally, Katinsky does not *aggregate* information into a simultaneous display of different informational items as we have claimed, but instead sequences the playing of media objects (Katinsky col. 3 lines 45 - 44 - 47, col. 4 line 9, col. 5 line 3).

In the rationale for the final rejections of claims 1 and 7, it was proposed that "it would have been obvious to a person of an ordinary skill in the art ... to apply Madnick's (and presumably Wecker's?) teaching of aggregating results from different resources to Katinsky's system in order to retrieve data from semi-structured data source corresponding to user's request and further to provide the most relevance results corresponding to user's request" (pg. 4, lines 18 - 22).

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A *prima facie* case of obviousness has not been properly established, as this rationale is in error because Katinsky in view of Madnick, and alternatively Katinsky in view of Madnick in further view of Wecker, would not have been obvious to combine because Katinsky teaches of “pageless” systems for handling of “sequenced media object presentation”, while Madnick teaches a page-oriented design (not pageless) for handling semi-structured data (silent regarding media objects, audio, streaming video, etc.), and Wecker teaches of a page-oriented design (not pageless) for displaying hyperlinks (but not executing scripts, adopting an OAN model, etc.).

No citation is provided where in the cited art it is suggested or taught that Katinsky’s pageless media-only player system could be modified to be a page-based, semi-structured data hyperlink displayer. In order to establish a case of obviousness under 35 U.S.C. 103(a), the Examiner must cite where motivation to make such a combination or modification is taught in the cited references, even if the references “could” have been modified. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780 (Fed. Cir. 1992).

In the rationale provided by the Examiner, by citing the “user’s preferences”, it appears that Examiner considers motivation to be found due to increase convenience to the user, but this is controverted by the apparent teaching away of Katinsky to using a page-based design and the undesirability, not just a design trade-off choice, according to Katinsky of such page-based, conventional web sites, which points towards non-obviousness. *In re Rudko*, Civ. App. No. 98-1505 (Fed. Cir. May 14, 1999) (unpublished). *Winner Int’l Royalty Corp. V. Wang*, 202 F3d 1340, 53 USPQ2d 1580 (Fed. Cir.), *cert. denied*, 530 U.S. 1238 (2000).

Appellant submits that given the apparent teaching away and teaching of lack of desirability of the primary reference, and the number of secondary references needed to arrive at the proposed combination, obviousness has not been properly established and does not exist. Therefore, Appellant requests reversal of the rejections of and allowance of claims 1 - 4, 6, 7 - 10, and 12.



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*Rejections under 35 U.S.C. §103(a) over Katinsky  
in view of Madnick in further view of Wecker in  
further view of Nikolovska*

**Claims 5 and 11**

Claim 5 is dependent on Claim 1, and Claim 11 is dependent on Claim 7. For the same reasons argued in the foregoing paragraphs, the proposed combination of Katinsky, Madnick, Wecker, and additionally Nikolovska has not been properly established as a combination and modification which would have been obvious to one ordinarily skilled in the art at the time the invention was made for lack of suggestion or motivation in the cited art to make the four-way combination and modification.

For these reasons, Appellant requests reversal of the rejections of and allowance of claims 5 and 11.

Respectfully,

*Robert Frantz*

Agent for Applicant(s)  
Robert H. Frantz, Reg. No. 42,553  
Tel: (405) 812-5613

Franklin Gray Patents, LLC  
P.O. Box 23324  
Oklahoma City, OK 73127  
Tel: 405-812-5613  
Fax: 405-440-2465

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**Appendix A****Clean Form of Amended Claims****Claim 1 (previously amended):**

A method for providing information to a user through an Object-Action

Navigation paradigm comprising the steps of:

displaying in a web page a Context Pane having one or more selectable objects of interest to a user;

displaying in said web page a plurality of selectable heterogeneous actions associated with an object and responsive to user selection of an associated object;

executing an action script in response to user selection of a selectable action, said action script generating a set of results; and

displaying in said web page to said user said action script results in a Content Pane, said Content Pane containing an aggregation results from a plurality of semi-independent heterogeneous information modules, heterogeneous transactional modules, or both, said information being filtered and sorted according to said user's interest as indicated by a most recent selection in said Context Pane.

**Claim 2 (original)**

The method of Claim 1 wherein said step of executing an action script comprises performing a search for information related to said selected object.

**Claim 3 (original):**

The method of Claim 1 wherein said step of executing an action script comprises retrieving data or information from a database.

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**Claim 4 (original):**

The method of Claim 1 wherein said step of executing an action script comprises the step of retrieving current data or information from a datafeed.

**Claim 5 (original):**

The method of Claim 1 wherein said step of displaying said results in a content pane further comprises filtering and sorting said results prior to display.

**Claim 6 (original):**

The method of Claim 1 wherein said step of displaying said results in a content pane comprises organizing said content pane into a plurality of selectable workspaces.

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**Claim 7 (previously amended):**

A computer readable medium encode with software for providing information to a user through an Object-Action Navigation paradigm, said software causing a user computer to perform the steps of:

display in a web page a context pane having one or more selectable objects of interest to a user;

display in said web page a plurality of selectable heterogeneous actions associated with an object and responsive to user selection of an associated object;

execute an action script in response to user selection of a selectable action, said action script generating a set of results; and

display in said web page to said user said action script results in a Content Pane, said Content Pane containing an aggregation results from a plurality of semi-independent heterogeneous information modules, semi-independent heterogeneous transactional modules, or both, said information being filtered and sorted according to said user's interest as indicated by a most recent selection in said Context Pane.

**Claim 8 (original):**

The computer readable medium of Claim 7 wherein said software for executing an action script comprises software for performing a search for information related to said selected object.

**Claim 9 (original):**

The computer readable medium of Claim 7 wherein said software for executing an action script comprises software for retrieving data or information from a database.

**Claim 10 (original):**

The computer readable medium of Claim 7 wherein said software for executing an action script comprises software for retrieving current data or information from a datafeed.

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Claim 11 (original):

The computer readable medium of Claim 7 wherein said software for displaying said results in a content pane further comprises software for filtering and sorting said results prior to display.

Claim 12 (original):

The computer readable medium of Claim 7 wherein said software for displaying said results in a content pane comprises software for organizing said content pane into a plurality of selectable workspaces.

Claims 13 - 15 (previously withdrawn).